

Reconsideration of the above-identified application is respectfully requested in view of the following remarks.

REMARKS

Status of the claims

Claims 1-8 are currently pending.

The Examiner has finally rejected claims 1-8.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1-3, 6 and 8 under 35 U.S.C. §102(b) as being anticipated by Montalto et al. (U.S. Pat. 3,542,519). Applicant respectfully traverses this rejection.

According to the M.P.E.P., “to anticipate the claim, the reference must teach every element of the claim.” See M.P.E.P. §2131, Eighth Edition, Rev. Aug. 2005, at page 2100-76. Currently pending claim 1 is directed to, “[a] timing device for visually determining the passage of a preselected period of time comprising: a redox indicator deposited within a matrix and in combination with a reactable metal ion, said matrix being exposable to air such that over a period of time during exposure to air, the redox indicator changes color and thereby indicates the passage of a predetermined period of time.” See currently pending claim 1 (emphasis added). As such, it is clear that the currently pending claims are directed to a timing device which combines a redox indicator and a

reactable metal ion. There is simply no indication whatsoever in Montalto et al. that the disclosed time indicator comprises both a redox indicator and a reactable metal ion. In fact, according to Montalto et al., “[i]n general, redox indicators with normal oxidation potentials of +0.76 volt or smaller are useful. The normal potential is expressed with reference to the potential of the normal hydrogen electrode. As thus expressed, the ferrous-ferric ion couple has a normal oxidation potential of +0.76.” There is no other disclosure in Montalto et al. of metal ions. It is Applicant’s position that this brief disclosure of a ferrous-ferric ion couple in Montalto et al. is simply meant to exemplify the volt potential of useful redox indicators. Montalto et al. lists useful redox indicators at col. 5, lines 44-53. None of these listed useful redox indicators comprises a redox indicator and a reactable metal ion, and there is no indication that these redox indicators can be combined with a reactable metal ion. As such, Montalto et al. does not disclose all the limitations as presently claimed, and thus, does not and cannot anticipate the presently claimed invention. Furthermore, claims 2-3, 6 and 8, which depend either directly or indirectly from claim 1 are likewise not anticipated by Montalto et al. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over Montalto et al. (U.S. Pat. No. 3,542,519). Applicant respectfully traverses this rejection.

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” See M.P.E.P § 2143.03, Eighth

Edition, Rev. Aug. 2005 at page 2100-139 (emphasis added). As Applicant demonstrated hereinabove, Montalto et al. does not disclose all of the claim limitations of the presently claimed invention. Specifically, Montalto et al. does not disclose or suggest the combination of a redox indicator and a reactable metal ion in a timing device. As such, Applicant respectfully asserts that Montalto et al. does not and cannot render the presently claimed invention obvious. Reconsideration and withdrawal of this rejection are requested.

The Examiner has rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over Montalto et al. (U.S. Pat. No. 3,542,519) in view of Andersen (U.S. Pat. App. Pub. No. 2005/0078557). Applicant respectfully traverses this rejection.

As Applicant demonstrated hereinabove, Montalto et al. does not disclose all of the claim limitations of the presently claimed invention. Specifically, Montalto et al. does not disclose or suggest the combination of a redox indicator and a reactable metal ion in a timing device.

The Examiner has cited Andersen as a secondary reference, however, this secondary reference does not overcome the deficiency of Montalto et al. Specifically, the Examiner states that, "it would have been obvious to one of ordinary skill... to add the adhesive disclosed by Andersen to the indicator disclosed by Montalto et al." See Office Action at page 3, fourth paragraph. However, Applicant respectfully points out that the combination of Montalto et al. and Anderson does not teach or suggest all the claim limitations of the presently claimed invention. Andersen does not teach or suggest the use of a redox indicator and a reactable metal ion whatsoever. As such, Applicant asserts

that the combination of Montalto et al. and Andersen cannot and does not render the presently claimed invention obvious. Reconsideration and withdrawal of this rejection are respectfully requested.

The Examiner has rejected claim 7 under 35 U.S.C. §103(a) as being unpatentable over Montalto et al. (U.S. Pat. No. 3,542,519) in view of Preziosi et al. (U.S. Pat. No. 4,788,151). Applicant respectfully traverses this rejection.

As Applicant demonstrated hereinabove, Montalto et al. does not disclose all of the claim limitations of the presently claimed invention. Specifically, Montalto et al. does not disclose or suggest the combination of a redox indicator **and** a reactable metal ion in a timing device.

According to the Examiner, "it would have been obvious to one of ordinary skill... to replace the iron ions disclosed by Montalto et al. with the tin ions disclosed by Preziosi et al." See Office Action at page 3, fourth paragraph. However, there is simply no suggestion or motivation to combine these references. While Preziosi et al. does teach the use of various metals (See Preziosi et al. col. 3, lines 11-31), Preziosi et al. does not suggest the use of these metals in combination with a redox indicator, as presently claimed by Applicant. According to Applicant's specification, the redox indicator and metal ion form a redox couple. See Specification at page 4, second paragraph. Whereas, according to Preziosi et al., "the effective complexing metals of the present invention are those whose cations complex with the acetylenic compound." See Preziosi et al., col. 3, lines 12-14. There is simply no teaching, suggestion or motivation of forming a redox coupling with a redox indicator and a reactable metal ion whatsoever. Furthermore, there

is no suggestion that the acetylenic compound of Preziosi et al. is in anyway analogous to the redox indicator presently claimed. As such, Applicant asserts that the combination of Montalto et al. and Andersen cannot and does not render the presently claimed invention obvious. Reconsideration and withdrawal of this rejection are respectfully requested.

Respectfully submitted,

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Date

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